

State of California
Regional Water Quality Control Board
North Coast Region

Robert Tancreto
March 10, 2003

EXECUTIVE OFFICER'S SUMMARY REPORT
9:00 a.m., May 15, 2003
Regional Water Quality Control Board
5550 Skylane Boulevard, Suite A
Santa Rosa, CA 95403

ITEM: 18

SUBJECT: State Water Resources Control Board, Water Quality Enforcement Policy

DISCUSSION

On February 27 and March 27, 2003, we had a discussion of the Enforcement Policy and will continue that discussion at this Board Meeting. The sections of the Enforcement Policy being reviewed at this meeting will be the Calculation of Administrative Civil Liabilities, Supplemental Environmental Projects and Mandatory Minimum Penalties. Since the Enforcement Policy was reproduced for the February agenda, we did not reproduce the Policy for this agenda.

The Porter Cologne Water Quality Control Act (Porter Cologne Act) places primary responsibility for coordination and control of water quality with the State Water Resources Control Board (State Water Board) and each Regional Water Quality Control Board (Regional Water Board). Furthermore, the Porter Cologne Act directs the State Water Board to formulate and adopt state policy consisting of principles and guidelines deemed essential by the State Water Board for water quality control.

The State and Regional Water Boards have broad authority to require the protection of water quality through development of policies and issuance of permits and directives. When compliance with the policies, permits, or directives does not occur, the Regional Water Boards can take a variety of enforcement actions under the Porter-Cologne Act, the Toxic Pits Cleanup Act of 1984, portions of the Health and Safety Code, and some sections of the Harbors and Navigation Code. With nine regional water boards, the issue of consistent and fair enforcement has often arisen. To facilitate consistent application of enforcement actions, the State Water Board has adopted and maintains a Water Quality Enforcement Policy to guide the application of water quality enforcement throughout the State.

During the latest five-year review of the Water Quality Enforcement Policy, the State Water Board assembled a panel to review and evaluate the consistency of enforcement orders taken by the regional water boards. The panel was called the Enforcement Order Review Panel and was composed of State and Regional Water Board members who reviewed the enforcement actions across the state with the intent to revise the Water Quality Enforcement Policy so that future enforcement orders would be more consistent among the Regional Water Boards. The Panel made numerous recommended revisions to the Water Quality Enforcement Policy. Public hearings were held in January 2001 and January 2002 and the State Water Board made further revisions as the result of those public hearings. On February 19, 2002, the State Water Board adopted the Water Quality Enforcement Policy. The Policy was reviewed by Office of Administrative Law and approved, becoming effective on July 30, 2002. The current version of the Water Quality Enforcement Policy (Policy) was included in your agenda package as a separately bound document, as staff recommends the Regional Water Board members keep this document for future reference.

The Policy covers many different matters, including:

Standardizing Orders to avoid vagueness and other complications which can hinder compliance and reduce effective enforcement.

Recognizing progressive enforcement, which begins with a simple staff interaction with the regulated community to assist discharges come into compliance and ends with formal directives that ultimately are quasi-judicial actions.

Providing priorities for enforcement to ensure violations are addressed in a “worst first” approach, such that violations are grouped as low, medium or high priority for enforcement actions.

Details the applicability of various levels of enforcement actions to various types of violations.

Describes use of Supplemental Environmental Projects as well as Compliance Projects in certain circumstances in lieu of some administrative civil liabilities.

During today’s presentation, staff will review the complete document with the Board and answer any questions concerning its application.

PRELIMINARY

STAFF RECOMMENDATION: This is an informational item only.